

OCT 12 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Franciscus B.G. BENNEKER et al :
Serial No.: 09/855,710 : Group Art Unit: 1625
Confirm. No.: 9651 : Examiner: CHANG, Celia
Filed: May 16, 2001 :
For: 4-PHENYLPYPERIDINE COMPOUNDS

REQUEST FOR RECONSIDERATION

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

October 12, 2004

Sir:

In response to the Office Action dated July 12, 2004, the following remarks and attachments are respectfully submitted in connection with the above-identified application.

Claims 24-26 remain pending in the present application. Pursuant to the Examiner's request, a copy of the Rule 132 Declaration filed in the grandparent application, now US Patent 5,874,447, is attached hereto. Applicants appreciate the Examiner's indication of patentability for the pending claims 24-26.

OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claims 24-26 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent 5,874,447. Specifically, the Examiner asserts that claims 24-26 are directed to a sub-

Serial No.: 09/855,710

genus of the process claimed in claim 7 of 5,874,447. This rejection is respectfully traversed.

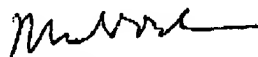
To obviate this rejection, applicants submit herewith a Terminal Disclaimer over U.S. Patent 5,874,447 along with the required fee of \$110.00 under 37 C.F.R. § 1.20(d). Accordingly, the rejection has been overcome and reconsideration and withdrawal of this rejection are respectfully requested.

CONCLUSION

The presently claimed subject matter is novel and unobvious over the prior art of record. Passing of the case to issue is respectfully requested.

Should the Examiner have any questions regarding this application, she is encouraged to contact Mark R. Buscher (Reg. No. 35,006) at telephone No. 703 753 5256.

Respectfully submitted,



Mark R. Buscher Reg. No. 35,006

P.O. Box 161
Catharpin, VA 20143
703 753 5256

Encls.: Terminal Disclaimer
Copy of Rule 132 Declaration from 08/872,023